

August 08, 2025

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

BY: \_\_\_\_\_

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DEPUTY

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

MATTHEW ANDREW GARCES, §  
§  
*Plaintiffs, Pro Se,* §  
§  
v. §  
§  
City of San Antonio, SAPD Officer § CASE NO.: 5:25-CV-00388-OLG  
Ricardo Carrera Pineyro, Badge §  
#1363, SAPD Officer Mark Avila, §  
Badge #3600, and National General §  
Insurance Company (an Allstate §  
company), §  
§  
*Defendants.* §

**PLAINTIFF'S OBJECTION TO ORDER DENYING OBJECTIONS TO  
RULE 26(f) REPORT AND PROPOSED SCHEDULING ORDER (DKT. 31)**

**TO THE HONORABLE CHIEF JUDGE OF THE WESTERN DISTRICT OF  
TEXAS:**

Plaintiff MATTHEW ANDREW GARCES, proceeding *pro se*, files this  
Objection to Judge Orlando L. Garcia's Order (Dkt. 31) denying Plaintiff's  
Objections to Defendants' Rule 26(f) Report and Proposed Scheduling Order. This  
Order perpetuates a pattern of judicial retaliation, ignores binding precedent,  
violates due process, and constitutes reversible error under **Fed. R. Civ. P. 72(a)**  
and **28 U.S.C. § 636(b)(1)(A)**.

## I. JURISDICTION & STANDARD OF REVIEW

This Objection is filed pursuant to **Fed. R. Civ. P. 72(a)** (authorizing objections to nondispositive orders) and the Court's inherent authority to correct manifest errors of law. *De novo* review is required because the Order:

- (A) Ignores controlling Fifth Circuit precedent on discovery stays;
- (B) Violates due process by endorsing Defendants' bad-faith tactics;
- (C) Continues a documented pattern of judicial retaliation.

*See Gómez v. United States*, 490 U.S. 858, 876 (1989) (constitutional errors warrant *de novo* review).

## II. THE ORDER ERRONEOUSLY APPROVES DEFENDANTS' DISCOVERY ABUSE

### A. Qualified Immunity Does Not Justify a Blanket Discovery Stay

Judge Garcia's Order tacitly endorses Defendants' refusal to engage in discovery pending immunity resolution—a position squarely contradicted by binding authority:

#### 1. Fifth Circuit Precedent:

- *Wicks v. Miss. State Emp't Servs.*, 41 F.3d 991, 994 (5th Cir. 1995): “Limited discovery may be necessary before the district court can resolve a qualified immunity defense.”

- *Backe v. LeBlanc*, 691 F.3d 645, 648 (5th Cir. 2012): Discovery must

be tailored where immunity turns on disputed facts.

Defendants' refusal to produce even **Rule 26(a)(1)** initial disclosures flouts these mandates.

## **2. Sovereign Immunity Is Legally Frivolous:**

SAPD is a non-jural entity incapable of asserting sovereign immunity. *Darby v. Pasadena Police Dep't*, 939 F.2d 311, 313 (5th Cir. 1991). Defendants' position warrants sanctions under **28 U.S.C. § 1927**.

## B. Defendants' Rule 26(f) Violations Are Sanctionable

The Order ignores Defendants' willful noncompliance with **Fed. R. Civ. P. 26(f)**:

**1. Failure to Preserve Evidence:** Defendants denied preservation obligations despite known ESI related to falsified police reports, violating *Zubulake v. UBS Warburg LLC*, 220 F.R.D. 212, 217 (S.D.N.Y. 2003).

**2. Bad-Faith Conferral:** Boilerplate "No" responses to 12/14 Rule 26(f) questions defy the "spirit of cooperation" required by *In re Pioneer Hi-Bred Int'l, Inc.*, 238 F.3d 1370, 1375 (Fed. Cir. 2001).

## III. JUDICIAL RETALIATION VIOLATES DUE PROCESS

The Order continues a pattern of retaliation documented in Plaintiff's prior

filings:

A. Documented Retaliatory Conduct

**1. Expedited Dismissals:**

Judge Garcia and Magistrate Chestney issued same day case dismissals after Report and Recommendations in multiple cases (e.g., SA-25-CV-609, SA-25-CV-636), denying Plaintiff the **14-day objection period** required by **28 U.S.C. § 636(b)(1)**. *Smith v. Manns*, 929 F.3d 986, 988 (8th Cir. 2019) (rushed rulings violate due process).

**2. Retaliatory Sanctions Threats:**

The Order's sanctions warning (Dkt. 28, 31) followed Plaintiff's lawsuit against judicial officers in *Garces v. Biery* (No. 5:25-CV-609), constituting retaliation under *Kentucky v. Graham*, 473 U.S. 159, 166 (1985).

B. Legal Standard for Judicial Bias

1. **28 U.S.C. § 455(a)**: Recusal is required where “impartiality might reasonably be questioned.”

2. **Fifth Circuit Test**: An objective observer aware of the facts would doubt the court's impartiality. *Parker v. Conn. State Dep't of Educ.*, 222 F. App'x 469, 471 (5th Cir. 2007).

Judge Garcia's refusal to address these issues violates *Liteky v. United States*, 510 U.S. 540, 555 (1994) ("deep-seated antagonism" requires recusal).

#### IV. THE ORDER VIOLATES TEXAS AND FEDERAL DUE PROCESS

##### A. Structural Error Under the Fifth Amendment

Proceeding before a biased tribunal is structural error. *Aetna Life Ins. Co. v. Lavoie*, 475 U.S. 813, 825 (1986). Texas law mirrors this standard: *In re Union Pac. Res. Co.*, 969 S.W.2d 427, 428 (Tex. 1998) (recusal required for "reasonable doubt" about impartiality).

##### B. Failure to Apply Rule 1 and Rule 26

The Order disregards:

- **Fed. R. Civ. P. 1:** Mandates "just, speedy, and inexpensive" resolution.
- **Fed. R. Civ. P. 26(b)(1):** Discovery scope includes "any nonprivileged matter relevant to any party's claim."

Defendants' obstructionism and the Court's endorsement violate these rules.

*Chambers v. NASCO, Inc.*, 501 U.S. 32, 45–46 (1991) (courts must curb bad-faith tactics).

#### V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests:

1. **VACATE** the Order (Dkt. 31) denying Plaintiff's Objections;
2. **ADOPT** Plaintiff's Proposed Scheduling Order;
3. **COMPEL** Defendants to produce **Rule 26(a)(1)** disclosures within 7 days;
4. **SANCTION** Defendants under **Rule 37(b)(2)(A)** for discovery abuse;
5. **RECUSE** Judge Garcia and Magistrate Chestney under **28 U.S.C. § 455(a)**;
6. **REASSIGN** this case to an impartial Article III judge.

#### VERIFICATION

I, Matthew Andrew Garces, declare under penalty of perjury that the foregoing is true and correct. Executed on August 8, 2025.

Respectfully submitted,  
/s/ Matthew Garces  
Matthew A. Garces, RN, CEO, *Pro Se*

#### CERTIFICATE OF SERVICE

I certify service via CM/ECF on August 8, 2025.

Respectfully submitted,  
/s/ Matthew Garces  
Matthew A. Garces, RN, CEO, *Pro Se*